

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JOSE MANUEL AGUIRRE-GANCEDA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

NO. CR-03-6016-EFS

**ORDER DENYING MR. AGUIRRE-  
GANCEDA'S FEDERAL RULE OF  
CIVIL PROCEDURE 12(h)(3)  
MOTION TO DISMISS FOR LACK OF  
SUBJECT MATTER JURISDICTION**

Before the Court is Petitioner Jose Manuel Aguirre-Ganceda's Federal Rule of Civil Procedure 12(h)(3) Motion to Dismiss for Lack of Subject Matter Jurisdiction. ECF No. [209](#). Mr. Aguirre-Ganceda contends this Court lacks subject matter jurisdiction and therefore asks the Court to, inter alia, dismiss this proceeding pursuant to Federal Rule of Civil Procedure 12(h)(3). Mr. Aguirre-Ganceda fails to explain why the Federal Rules of Civil Procedure apply to this criminal matter wherein he was found guilty by a jury, he was sentenced by the Court, and his appeal of his conviction and sentence was denied by the Ninth Circuit. Upon review, the Court finds Mr. Aguirre-Ganceda is not entitled to the requested relief and denies his motion.

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1 For the above-given reasons, **IT IS HEREBY ORDERED:** Mr. Aguirre-  
2 Ganceda's Federal Rule of Civil Procedure 12(h)(3) Motion to Dismiss for  
3 Lack of Subject Matter Jurisdiction, **ECF No. [209](#)**, is **DENIED**.

4 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this  
5 Order and distribute copies to Mr. Aguirre-Ganceda and the U.S.  
6 Attorney's Office.

7 **DATED** this 18<sup>th</sup> day of December 2012.

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9 S/ Edward F. Shea  
EDWARD F. SHEA  
10 Senior United States District Judge

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